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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/528,065

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Serge Gidon

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OLIFF & BERRIDGE, PLC

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EXAMINER

PATANKAR, ANEETA V

ART UNIT

PAPER NUMBER

2627

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/528,065	<b>Applicant(s)</b> GIDON, SERGE	
	<b>Examiner</b> Aneeta Patankar	<b>Art Unit</b> 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 20-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/15/05</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 20-22, 24-27, and 30-38** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,835,477 to *Binning et al.* in view of U.S. Patent No. 6,084,849 to *Durig et al.*

As to **claim 20**, *Binning* discloses the data recording device comprising a two-dimensional array of microtips, arranged in a plane opposite a storage medium (Fig. 5A, columns 8-9, lines 66-1), where the parallel probes (46) are the microtips and they are formed in an array, and electronic means for addressing and controlling the microtips so as to enable data recording on the storage medium (Fig. 8, column 11, lines 12-15), where the memory controls addressing and controlling of the microtips, a plurality of cells, at least one micro-tip being associated with each cell (Fig. 3, column 8, lines 36-38, Fig. 5A, columns 8-9, lines 66-1), where each storage field (31) is a cell and each tip (46) is associated with each cell.

*Binning* is deficient in disclosing the storage medium comprising a flexible diaphragm borne by a frame.

However, *Durig* discloses the storage medium comprising a flexible diaphragm borne by a frame (Fig. 2, column 4, lines 7-9).

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to have modified the data recording device comprising a two-dimensional array of microtips as taught by *Binning* by including that the storage medium comprises a flexible diaphragm as taught by *Durig*. The suggestion/motivation would have been in order for the recording medium to be able to change shape several times without the recording medium changing its properties (*Durig*, column 3, lines 24-36).

As to **claim 21**, *Binning* discloses the device, wherein the microtips have an apex of nanometric dimensions (Column 9, lines 8-12), where if the distance between tip to tip is in the nm range, so is the apex.

As to **claim 22**, *Binning* discloses the device, wherein the cells (31) are rectangular (Fig. 3, column 8, lines 36-38), where each storage field, or cell (31) is rectangular.

As to **claim 24**, *Binning* discloses the device, comparing two arrays of the microtips arranged on each side of the storage medium (Fig. 5A, column 8, lines 62-66), where multiple arrays of microtips are shown.

As to **claim 25**, *Binning* discloses the device, wherein the two arrays of microtips are laterally offset so that the microtips associated with any one cell of the frame are not arranged exactly opposite one another (Fig. 5A-B, columns 8-9, lines 62-4), where the microtips are offset laterally.

As to **claim 26**, *Binning* discloses the device, wherein the frame is formed by a silicon layer in which cells are formed (Column 5, lines 1-3), where the media is made of silicon.

As to **claim 27**, *Binning* is deficient in disclosing the device, wherein the flexible diaphragm comprises at least a first layer, performing the function of a memory, and a second layer designed to ensure a certain rigidity.

However, *Durig* discloses the device, wherein the flexible diaphragm comprises at least a first layer, performing the function of a memory, and a second layer designed to ensure a certain rigidity (Fig. 2, column 4, lines 5-9), where the first layer is an SMA layer, or flexible memory layer (24) and the second layer is rigid (20). In addition, the same motivation is used as the rejection in claim 20.

As to **claim 30**, *Binning* is deficient in disclosing the device, wherein the flexible diaphragm comprises first and second elementary diaphragms separated by an array of spacer elements laterally offset with respect to the frame.

However, *Durig* discloses the device, wherein the flexible diaphragm comprises first and second elementary diaphragms separated by an array of spacer elements laterally offset with respect to the frame (Fig. 6, columns 5-6, lines 66-4), where fields (54.1-54.4) are separate diaphragms and they are spaced apart laterally.

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to have modified the data recording device comprising a two-dimensional array of microtips as taught by *Binning* by including flexible diaphragms separated by spacer elements as taught by *Durig*. The suggestion/motivation would

have been in order to access data on the storage medium at a faster rate (Durig, Fig. 6 and 7, columns 5-6, lines 66-25).

As to **claim 31**, *Binning* is deficient in disclosing the device, wherein the array of spacer elements constitutes an intermediate frame.

However, *Durig* discloses the device, wherein the array of spacer elements constitutes an intermediate frame (Fig. 6, columns 5-6, lines 66-4), where spacer elements (54.1-54.4) are spaced apart. In addition, the same motivation is used as the rejection in claim 30.

As to **claim 32**, *Binning* is deficient in disclosing the device, wherein the spacer elements are formed by studs.

However, *Durig* discloses the device, wherein the spacer elements are formed by studs (Fig. 7, column 6, lines 4-12), where the storage fields (54.1-54.4) are the spacer elements are formed by the cantilevers and tips. In addition, the same motivation is used as the rejection in claim 30.

As to **claim 33**, *Binning* discloses sub-dividing each cell into a plurality of elementary cells each associated with at least one microtip (Fig. 8, column 12, lines 20-24), where each cell or sub-array (81) is divided into several storage fields (82).

*Binning* is deficient in disclosing the device, comprising an array of flexible plates, separated from the diaphragms by a two-dimensional array of spacer studs.

However, *Durig* discloses the device, comprising an array of flexible plates, separated from the diaphragms by a two-dimensional array of spacer studs (Fig. 6 and 7, columns 5-6, lines 66-12), where the array of flexible plates are (54.1-54.4) and are

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spaced by spacer studs, or cantilevers and microtips. In addition, the same motivation is used as the rejection in claim 30.

As to **claim 34**, *Binning* discloses the device, wherein the number of microtips of the array being about ten thousand (Fig. 5A, columns 8-9, lines 62-12), where there are several microtips, the number of the elementary cells subdividing a cell is about one hundred (Fig. 8, column 12, lines 20-24), where each cell or sub-array (81) is divided into several storage fields (82) and the storage fields are great in number.

As to **claim 35**, *Binning* discloses the device, wherein the array of microtips has a slightly different pitch from that of the array of spacer studs (Fig. 5A, column 8, lines 62-65), where the microtips are probes (46) and the studs are levelers (47) and because the tips of the probes or microtips are sharper, the spacing between them tip to tip is greater than the space between the studs, or levelers.

As to **claim 36**, *Binning* is deficient in disclosing the device, wherein the frame and plates are formed in a silicon layer having a thickness of 100 $\mu$ m to 500 $\mu$ m.

However, *Durig* discloses the device, wherein the frame and plates are formed in a silicon layer having a thickness of 100 $\mu$ m to 500 $\mu$ m (Fig. 2, column 4, lines 9-12), where substrate (20) is the silicon layer and it has a thickness of a few hundred microns.

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to have modified the data recording device comprising a two-dimensional array of microtips as taught by *Binning* by including that there is a silicon layer on the disc having a thickness of 100 $\mu$ m to 500 $\mu$ m as taught by *Durig*. The

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suggestion/motivation would have been in order for the substrate to be thick enough to carry the load of the pressure from the memory layer SMA when it is indented (Durig, column 4, lines 5-16).

As to **claim 37**, *Binning* discloses the device, wherein the spacer elements or studs, are made of silicon, silicon nitride, or carbon, with a thickness of 50nm to 500nm (Column 4, lines 2-5), where the cantilevers, or studs, can be made of silicon and the thickness can vary.

As to **claim 38**, *Binning* discloses the device, comprising means for relative movement of the storage medium and the microtip array, in a direction parallel to said plane (Fig. 5A, column 9, lines 7-12), where the microtip array (46) is moved in a direction parallel to the plane by reading/writing to the first column, then moving to the second column, etc.

3. **Claim 23** is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,835,477 to *Binning et al.* in view of U.S. Patent No. 6,084,849 to *Durig et al.* as applied to claim 20 above, and further in view of U.S. Patent No. 3,646,533 to *Rosenblum*.

As to **claim 23**, *Binning* and *Durig* are deficient in disclosing the device, wherein the cells are hexagonal.

However, *Rosenblum* discloses the device, wherein the cells are hexagonal (Fig. 2A, column 2, lines 12-14), where the honeycomb core is the hexagonal cells used for storing information.



At the time of invention, it would have been obvious to a person of ordinary skilled in the art to have modified the cells on the disc as taught by *Binning* and *Durig* by including that the cells are hexagonal as taught by *Rosenblum*. The suggestion/motivation would have been in order to form a low density core (Rosenblum, column 2, lines 42-44).

4. **Claims 28 and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,835,477 to *Binning et al.* in view of U.S. Patent No. 6,084,849 to *Durig et al.* as applied to claim 20 above, and further in view of U.S. Patent No. 6,579,742 B2 to *Chen*.

As to **claim 28**, *Binning* and *Durig* are deficient in disclosing the device, wherein the second layer is an amorphous carbon or diamond-like carbon layer deposited on a silicon layer before formation of the cells is performed on the opposite face of the silicon layer.

However, *Chen* discloses the device, wherein the second layer is an amorphous carbon or diamond-like carbon layer deposited on a silicon layer before formation of the cells is performed on the opposite face of the silicon layer (Fig. 1a-c, columns 4-5, lines 65-7), where layer (22) can comprise of a diamond-like carbon.

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to have modified the data recording device comprising a two-dimensional array of microtips as taught by *Binning* and *Durig* by including that the second layer is a diamond-like carbon layer as taught by *Chen*. The

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suggestion/motivation would have been in order for the substrate to be electrically insulating (Chen, columns 4-5, lines 65-7).

As to **claim 29**, *Binning* is deficient in disclosing the device, wherein the second layer is doped by boron or silver.

However, *Durig* discloses the device, wherein the second layer is doped by boron or silver (Fig. 3C, column 5, lines 28-31), where second layer (20) is conductive and can become conductive by doping boron or silver into it.

At the time of invention, it would have been obvious to a person of ordinary skilled in the art to have modified the data recording device comprising a two-dimensional array of microtips as taught by *Binning* by including that the second layer of the recording medium is doped by boron or silver as taught by *Durig*. The suggestion/motivation would have been in order for the substrate to serve as a back-electrode (*Durig*, column 5, lines 28-31).

### **Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aneeta Patankar whose telephone number is (571) 272-9773. The examiner can normally be reached on Monday-Thursday 8-5, Second Friday, 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on (571) 272-4483. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jorge L Ortiz-Criado/  
Primary Examiner, Art Unit 2627

/A.P./  
12/10/08